

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HORACE W. CRUMP, JR.,

Petitioner,

v.

KENNETH T. McKEE,

Respondent.

Case No. 1:02-CV-499

Hon. Richard Alan Enslen

ORDER

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This matter is before the Court on Petitioner Horace W. Crump, Jr.'s Motion for Reconsideration. On August 19, 2005, this Court denied Petitioner's Objections to United States Magistrate Judge Ellen S. Carmody's June 20, 2005 Report and adopted her recommendation that Petitioner's *habeas corpus* petition be denied. Petitioner filed a Motion for Rehearing pursuant to Federal Rule of Civil Procedure 59(b) which the Court will construe as a Motion for Reconsideration. *Cf. FED. R. CIV. P. 59 and 60 with W.D. MICH. LCIVR 7.4.*

Petitioner's Motion for Reconsideration avers that no court has addressed whether he had the mental capacity to formulate the intent to kill or that there was insufficient evidence of his mental state. "[M]otions for reconsideration that merely present the same issues ruled upon by the Court shall not be granted." W.D. MICH. LCIVR 7.4(a). Magistrate Carmody's Report specifically found that "[a]s for Petitioner's claim that he lacked the capacity to formulate the intent to kill, the Court is not persuaded." (June 25, 2005 Report at 19.). The Report went on to support its finding with excerpts from trial testimony. Similarly, this Court reviewed the trial court transcript and also determined that "Petitioner's actions were planned and intentional." (Aug. 19, 2005 Op. at 2). Thus, the Court will deny Petitioner's Motion pursuant to Local Rule 7.4(a) as it has twice found that

Petitioner possessed the required mental capacity for first degree murder and his conviction was supported by sufficient evidence. Petitioner has not demonstrated that the Court's order suffers from a palpable defect, and furthermore, he has failed to show that a different result is manifest. W.D. MICH. LCIVR 7.4(a).

THEREFORE, IT IS HEREBY ORDERED that Petitioner Horace W. Crump, Jr.'s Motion for Reconsideration (Dkt. No. 40) is **DENIED**.

DATED in Kalamazoo, MI:
November 10, 2005

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE